

350 CMR 2.00: USE OF RESERVATIONS AND PARKWAYS

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2.01: Government and Use of the Reservations and Parkways Under the Care and Control of the Metropolitan District Commission

(1) Definition of Reservations and Parkways. Reservations and Parkways shall include all boulevards, roadways, driveways, bridges, buildings, structures, land, beaches, ponds, lakes, rivers and other waters under the care and control of the Metropolitan District Commission.

(2) Rules and Regulations.

- (a) Entrance on and exit from reservations, parkways or waterways by vehicular traffic shall be made over designated areas only.
- (b) No person is allowed on MDC Reservations except during the hours from dawn to dusk unless specified otherwise at the site, or by permit, Use of Parkways and Bridges is not restricted.
- (c) The Commission may post rules restricting recreational activity to designated areas and times.
- (d) Cookouts shall be allowed only in places designated; and the use of grilles, hibachis and other apparatus for cooking is permitted subject to the direction of an Authorized Police Officer or MDC Ranger. Picnics are allowed except in those areas where expressly prohibited. Open fires are prohibited except by permit from the Commissioner or his designee.
- (e) Drunkenness, breach of the peace, profanity, amplified sound, or disorderly conduct offensive to the general public are strictly forbidden. Possession of, or drinking of, alcoholic beverages is forbidden, except when authority has been granted by the Commissioner in writing.
- (f) No person shall willfully obstruct the free passage of vehicles or persons;
- (g) No person shall cause or permit any animal owned by him or in his custody or under his control, except a dog when restrained by a leash not exceeding seven feet in length, to roam or be at large in, on, or through any reservation or parkway, or to be hitched or tied to a fence, tree, bush, shrub, or any object or structure except as otherwise provided; nor ride or drive a horse or animal not well broken and under proper control and then only on such roadways or bridle paths where authorized; nor neglect or refuse to stop, place, change, or move the position of said horse or animal as directed by an Authorized Police Officer or MDC Ranger. Owners are required to properly dispose of their dog's animal waste.
- (h) The use of bicycles, and other means of transportation including in-line skating may be prohibited in areas so designated on a site by site basis.
- (i) No person, except in an emergency, shall bring, land, or cause to descend within any reservation or parkway any airplane, parachute or other apparatus of aviation, except by written permit from the Commissioner or his designee.
- (j) No person shall injure, deface, destroy, remove or carry off any sign, structure, facility, tree or any other property or equipment, real or personal, under the care and control of the Metropolitan District Commission.
- (k) Parades, games, fairs, carnivals, bazaars, gifts or solicitations for raising or collecting funds shall not be permitted without written Commissioner approval.
- (l) Lotteries, raffles, gambling and games of chance are prohibited; and no person shall have possession of machinery, instruments or equipment of any kind for use for these purposes on MDC property.

2.01: continued

- (m) Public assemblies of more than 25 persons shall not be allowed without a written permit from the Commissioner or his designee.
- (n) No person shall engage in any business, sale, or display of goods or wares without a written permit from the Commissioner or his designee.
- (o) All signs and advertising are prohibited on MDC property without a written permit from the Commissioner.
- (p) No person, unless authorized by law or permit, shall have possession of or discharge any weapon, firearm, fireworks or other explosive.
- (q) Hunting or trapping of animals or birds shall not be permitted unless specifically authorized by law, including the Colonial ordinances of 1641-47, or by the Commissioner. Injuring or otherwise disturbing animals or birds or their habitat is prohibited.
- (r) No person shall drop, throw, or place and allow to remain any litter, garbage, or other refuse, except in the receptacles provided; nor throw a lighted match, cigarette butt or any other burning substance on the ground or in said receptacles; nor bring or cause to be brought within any reservation or parkway any garbage, refuse or material for the purpose of dumping, or depositing same within said receptacles.
- (s) No person shall drop, throw or place any litter, garbage or refuse in any of the rivers or waters under the care and control of the Commission, or in any other way pollute or contribute to the pollution of such rivers or waters.
- (t) No person shall refuse or neglect to obey any posted regulatory sign or the lawful directions of an Authorized Police Officer, MDC Ranger or person in charge.
- (u) Public use allowed on established park trails in woodland areas. No off-trail use allowed except by permit from the Commissioner or his/her designee.

(3) Lands and Waters of the Watershed System. 350 CMR 2.00 shall apply to lands and waters under the care and control of the Metropolitan District Commission in and adjacent to the Quabbin, Ware, and Wachusett and Sudbury watersheds, commensurate with the provisions of M.G.L. c. 92, § 119, except where inconsistent with 350 CMR 11.09, or where inconsistent with the purposes for which the watershed system is maintained. In the case of inconsistency the provisions of 350 CMR 11.09 shall govern.

For purposes of permits and other approvals in the lands and waters in the Quabbin, Ware and Wachusett and Sudbury watersheds 'designee' of the Commissioner shall be the Quabbin Reservoir Superintendent for Quabbin and Ware watershed lands and waters, and Wachusett Reservoir Superintendent for Wachusett and Sudbury lands and waters.

(4) Massachusetts Colonial Ordinances of 1641-47 provide the citizens of the Commonwealth the right to fish, fowl and navigate in the areas below the high water mark along the coast.

2.02: Enforcement of Rules and Regulations by MDC Rangers

(1) Definitions.

Offense. Any violation of 350 CMR 2.00 through 5.00.

Ranger. Any person duly appointed by the Commissioner of the MDC to perform the duties of a Ranger pursuant to M.G.L. c. 92, § 34B.

(2) Authority.

- (a) Pursuant to M.G.L. c. 92, § 34B, Rangers are authorized to issue citations for violations contained in 350 CMR 2.00 through 5.00.

(3) Citation Procedure.

- (a) If a Ranger witnesses a violation of 350 CMR, the Ranger may issue a citation to the offender. The Ranger is authorized to request the name, address, driver's license, phone number, and date of birth of the offender.
- (b) The citation must contain the offense charged, the name and address of the offender, if known, the time and place of the offense and be signed by the Ranger.
- (c) If it is not possible to give the citation to the offender at the time of the offense, the MDC shall mail the citation to the offender's last known address within 15 days of the offense.

2.02: continued

(d) The Chief Ranger shall maintain and preserve one copy of all citations issued, and shall deliver a copy of all citations to the court with jurisdiction, within two business days.

(4) Payment or Appeal of Citation.

(a) The offender shall make full payment to the MDC Office of Reservations and Historic Sites, 20 Somerset Street, 9th floor, Boston, Massachusetts 02108.

(b) In lieu of payment, the offender may, within 21 days of receipt of the citation, request a hearing at the District Court of the Commonwealth with jurisdiction over the matter.

(c) If the offender fails to make timely payment of the citation and fails to appear for a hearing or fails to pay the citation upon an order of the court, the MDC may seek a criminal complaint against the offender.

2.03: Issuance of Special Use Permits-Generally

(1) Pursuant to and in conjunction with the policy stated in M.G.L. c. 92, §§ 33 and 37, the Commissioner or his/her designee may, upon a finding that a Special Use Permit request is consistent with the Commission's policy to increase public recreational opportunities, while preserving the environment of public parkland may issue a Special Use Permit.

(2) An applicant must comply with any terms and conditions contained within the Special Use Permit. Any act authorized pursuant to a Special Use Permit may be performed only by the person(s) named therein, and any such authorizations may not be assigned or delegated, except as provided by such permit.

(3) Special Use Permits may be issued by the Commissioner on an annually renewable basis, or for such a period of time as in the judgment of the Commissioner appears reasonable and consistent with Commission policy or as limited by any provision(s) of the General Laws.

(4) The Commissioner shall not issue nor allow continued use of any Special Use Permit, when in the Commissioner's opinion such permit may contribute to water or air pollution or to a general lowering of environmental quality. The Commissioner may waive a permit fee or requirement in whole or in part if he or she is satisfied that such a waiver is consistent with Commission policy and that it is in the best interest of the Commonwealth to do so.

(5) All person(s) requesting a Special Use Permit must agree to indemnify and hold the Commonwealth, the Commission, its employees and agents harmless against all claims relating to or arising out of the use of Commission property. The Commissioner may require the Permittee to obtain liability insurance to support the Permittee's obligation to indemnify and hold the Commonwealth and Commission harmless.

2.04: Special Use Permits-Commercial Activity

The Commissioner shall issue a special use permit for commercial activity only after evaluating the proposed use in light of the following policies:

(1) A Special Use Permit for Commercial Activity shall be given only after the Commissioner has requested responses from at least three vendors.

(2) All commercial activities within Commission lands shall be dependent upon the resources therein and shall enhance the public's enjoyment thereof.

(3) In determining whether to allow a proposed commercial use, the Commissioner shall consider the likely impact on Commission lands and facilities, the recreation or conservation benefits that will result, and the relative cost and resource effectiveness of the proposal.

(4) The Commissioner or his or her designee may, at their discretion, conduct a public hearing on any application for a permit for a commercial activity.

2.04: continued

(5) Commercial activities that do not necessitate private control over a given area or resource for a period greater than five years shall be allowed only through revocable permits. Commercial activities requiring such control for a longer period shall be allowed only through lease arrangements approved by the General Court, pursuant to the provisions of Article 49 (Amendments to the Constitution of the Commonwealth of Massachusetts), and only after such feasibility and impact studies as the Commission deems necessary.

(6) The Commercial activity permit provisions shall not apply to timber harvesting activities in and adjacent to the Quabbin, Ware, and Wachusett and Sudbury watersheds.

2.05: Special Use Permits- Special Events

(1) Special events or activities are defined as supervised or organized situations involving one or more participants or spectators, which might be expected to affect the public use or enjoyment or the general environmental quality of any of the lands or waters of the Commission.

(2) No person shall conduct any special activity or event upon the lands or waters of the Commission without first obtaining a "Special Use Permit" from the Commissioner or his designee.

2.06: Special Use Permit-Special Events-Hatch Memorial Shell

In determining whether to issue such a Permit, the Commissioner shall take into consideration the following factors:

- (1) The overall impacts of the seasonal special events schedule on the Hatch Shell environment;
- (2) The impact on surrounding neighborhoods;
- (3) Public safety and traffic concerns;
- (4) The impact on the general public to use and enjoy the Esplanade area.

2.07: Revocation of Special Use Permits

(1) All Special Use Permits issued by the Commission are in the nature of a license, and are revocable at-will.

(2) Any violation of a Permit by its holder, its agents, employees or guests of any term or condition therein shall constitute grounds for its revocation by the Commissioner or his authorized representative, whose action therein shall be final.

(3) In case of revocation of any Special Use Permit, all monies paid for or on account thereof shall, at the option of the Commissioner, be retained by the Commission, and the holder of such permit, together with his or her agents, employees, and guests who violated said terms or conditions shall be jointly and severally liable to the Commission for all damages and/or loss suffered by the Commission in excess of such monies retained. Neither such retention by the Commission of the whole nor any part of such monies nor the recovery or collection thereby of such damages, or both, shall in any manner relieve such person(s) from criminal liability for violation of any other state or local law, ordinance, rule or order.

2.08: Permits for Excavations or Driveway Openings on MDC Boulevards, Parkways and Land

(1) Definitions.

Boulevard. Any roadway under the care and control of the MDC.

Excavation. Any digging or opening into the surface of a MDC boulevard, parkway or land.

Parkway. Any roadway under the care and control of the MDC.

Tree. Shall mean any tree, shrub, or landscape planting.

2.08: continued

(2) General.

(a) MDC land may be dug up only under the following conditions. No Boulevard or any MDC Land shall be dug up, nor opening made therein for any purpose without a permit from the Commissioner or the Commissioner's designee. No material shall be dumped or placed on MDC Property. No tree shall be planted or removed or obstruction or structure placed on MDC Property or removed therefrom or changed without the written permit of the MDC. Any work shall be done under Commission supervision and to its satisfaction, and the entire expense of replacing and resurfacing the Boulevard or other MDC Land at the same level and in as good condition as before, with materials equal in specifications to those removed, shall be paid by the persons to whom the permit was given or by whom the work was done.

(b) In the case of a driveway opening on a Boulevard, the MDC shall grant a permit for a driveway location or alteration only after it has been determined that there is no other means of access and egress available and that said proposed driveway is in conformance with generally accepted safety standards.

(3) Application Process. All persons seeking a driveway or excavation permit must submit a request on a form prescribed by the MDC. All requests must contain the following:

- (a) A plan identifying any proposed change as well as a description of the general area;
- (b) A written description of the proposed work;
- (c) A copy of all permits issued by other regulatory bodies, necessary to perform the proposed work;
- (d) Other documentation requested by the MDC necessary to facilitate a review of the proposed work.

(4) Work Requirements.

(a) All excavation work must be performed in accordance with applicable statutes, regulations, codes or standards.

(b) Prior to the commencement of any excavation work, the Permittee must notify Dig Safe to obtain location of utilities. The Permittee is charged with the responsibility of reviewing MDC plans to ensure that the proposed excavation work will not adversely affect any subsurface utilities, equipment or structures including trees and tree-root systems.

(c) The MDC may require a bond to guarantee the faithful and satisfactory performance of the work and payment for any damage to MDC Boulevards, facilities and associated landscaping features caused by or resulting from the operations authorized by such permit. The amount of said bond shall be determined by the department not to exceed the estimated cost of the work and possible damage, but shall be not less than \$2,000 nor more than \$50,000.

(d) The Permittee must agree to indemnify and hold the MDC, Commonwealth of Massachusetts harmless for all injuries to persons or property resulting or arising from the issuance of a permit. The Permittee must warranty that all restorative work be in a safe condition for a period of one year after work ceases, and agree that it shall indemnify and defend any suits arising from an unsafe or dangerous condition.

(5) Status of Excavation or Driveway Permit. A permit is in the nature of a licence it is revocable at will. Acceptance of any permit is an acknowledgment of the Permittee that the permit does not confer any rights in real property of the Commonwealth.

(6) Fee for Excavation of Driveway Permits. Fees are set in 350 CMR 14.00.

2.09: Violations

(1) Whoever throws or places, or causes to be thrown or placed, any trash or other debris on any parkway, lake, stream or river or within 20 yards of such parkway, lake, stream or river shall be punished by a fine of not more than \$1,000 for the first offense and not more than \$10,000 for each subsequent offense (St. 1985, c. 197).

2.09: continued

(2) Any other violation of 350 CMR 2.00 shall be punishable with a fine of not more than \$200.00 (St. 1980, c. 106).

REGULATORY AUTHORITY

350 CMR 2.00: M.G.L. c. 92, § 37.